



Senate

General Assembly

File No. 326

February Session, 2000

Substitute Senate Bill No. 88

Senate, March 30, 2000

The Committee on Public Health reported through SEN. HARP of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***An Act Concerning The Department Of Mental Retardation
Registry Of Individuals Terminated Or Separated From
Employment As A Result Of Substantiated Abuse Or Neglect.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17a-247a of the general statutes is repealed and
2 the following is substituted in lieu thereof:

3 As used in sections 17a-247b to 17a-247e, inclusive, as amended by
4 this act, and subdivision (31) of subsection (a) of section 2c-2b:

5 (1) "Abuse" means the wilful infliction by an employee of physical
6 pain or injury or the wilful deprivation of services necessary to the
7 physical and mental health and safety of a department client.

8 (2) "Authorized agency" means any agency authorized in
9 accordance with the general statutes to conduct abuse and neglect
10 investigations and responsible for issuing or carrying out protective
11 services for persons with mental retardation.

12 (3) "Commissioner" means the Commissioner of Mental Retardation.

13 (4) "Department" means the Department of Mental Retardation.

14 (5) "Department client" means a person who is eligible for, and
15 receives services or funding from, the department.

16 (6) "Employee" means any individual employed (A) by the
17 department, or (B) by an agency, organization or individual that is
18 licensed or funded by the department.

19 (7) "Employer" means (A) the department, or (B) an agency,
20 organization or individual that is licensed or funded by the
21 department.

22 (8) "Neglect" means the failure by an employee, through action or
23 inaction, to provide a department client with the services necessary to
24 maintain [his] such client's physical and mental health and safety.

25 (9) "Protective services" has the same meaning [assigned to it] as
26 provided in section 46a-11a.

27 (10) "Registry" means a centralized data base containing information
28 regarding substantiated abuse or neglect.

29 (11) "Substantiated abuse or neglect" means a determination by an
30 authorized agency, following an investigation conducted or monitored
31 by such agency, that (A) abuse or neglect of a department client has
32 occurred, or (B) there has been a criminal conviction of a felony or
33 misdemeanor involving abuse or neglect.

34 Sec. 2. Section 17a-247b of the general statutes is repealed and the
35 following is substituted in lieu thereof:

36 (a) The Department of Mental Retardation shall establish and
37 maintain a registry of individuals who have been terminated or
38 separated from employment as a result of substantiated abuse or

39 neglect. The department shall, for the purposes of maintaining the
40 registry, be capable of responding to inquiries [, including response by
41 telephone voice mail or other automated response for initial inquiries,]
42 in accordance with subsection (c) of this section as to whether an
43 individual has been terminated or separated from employment as a
44 result of substantiated abuse or neglect. Such capability may include
45 response by telephone voice mail or other automated response for
46 initial inquiries.

47 (b) The registry shall include, but not be limited to, the following: (1)
48 The names, addresses and Social Security numbers of those
49 individuals terminated or separated from employment as a result of
50 substantiated abuse or neglect; (2) the date of termination or
51 separation; (3) the type of abuse or neglect; and (4) the name of any
52 employer or authorized agency requesting information from the
53 registry, the reason for the request and the date of the request.

54 (c) The department shall make information in the registry [, other
55 than limited information available through an automated response to
56 an initial inquiry,] available only to: (1) Authorized agencies, for the
57 purpose of protective service determinations; or (2) employers who
58 employ individuals to provide services to a department client.

59 (d) The department shall limit responses to requests for identifying
60 information from the registry established under this section to (1)
61 identification of the individual terminated or separated from
62 employment for substantiated abuse or neglect, and (2) the type of
63 abuse or neglect so substantiated.

64 (e) Not later than five business days following receipt of written
65 notification by an authorized agency of the substantiation of abuse or
66 neglect by an employee who has been terminated or separated from
67 employment for such abuse or neglect, an employer shall submit to the
68 department the name of such employee and such other information as
69 the department may request. Upon receipt of notification of such

70 termination or separation, the department shall conduct a hearing in
71 accordance with sections 4-177 to 4-181a, inclusive, governing
72 contested cases. The department shall not place an individual's name
73 on the registry until the department has completed the hearing and the
74 hearing has resulted in a decision to place the individual's name on the
75 registry.

76 (f) The department shall remove an employee's name from the
77 registry if an arbitration or a legal proceeding results in a finding that
78 the employee was unfairly terminated from employment.

79 (g) No employer shall be liable in any civil action for damages
80 brought by an employee or an applicant for employment whose name
81 appears on the registry established by this section arising out of the
82 conduct of the employer in (1) making any report in good faith
83 pursuant to subsection (e) of this section, (2) testifying under oath in
84 any administrative or judicial proceeding arising from such report, (3)
85 refusing to hire or to retain any individual whose name appears on the
86 registry established under this section, or (4) taking any other action to
87 conform to the requirements of this section. The immunity provided in
88 this subsection shall not apply to gross negligence or to wilful or
89 wanton misconduct.

90 Sec. 3. Section 17a-247c of the general statutes is repealed and the
91 following is substituted in lieu thereof:

92 (a) No employer shall hire an individual whose name appears on
93 the registry and no employer shall retain an individual after receiving
94 notice that an individual's name so appears.

95 (b) The department shall, on at least a semiannual basis, issue a
96 notice to employers containing the name of each individual placed on
97 the registry and the identifying information pertaining to such
98 individual as provided in subsection (d) of section 17a-247b, as
99 amended by this act.

100 Sec. 4. Section 17a-247e of the general statutes is repealed and the
101 following is substituted in lieu thereof:

102 The Department of Mental Retardation shall adopt regulations, in
103 accordance with the provisions of chapter 54, to implement the
104 provisions of sections 17a-247b to 17a-247e, inclusive, as amended by
105 this act.

106 Sec. 5. This act shall take effect from its passage.

PH Committee Vote: Yea 25 Nay 0 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Minimal

Affected Agencies: Department of Mental Retardation

Municipal Impact: None

Explanation**State Impact:**

This bill requires the department to issue a notice to employers semi-annually including the name of the individual placed on the registry and other identifying information. The bill also eliminates the requirement that the department respond to initial registry inquiries by using telephone voice mail or other automated response, instead making it permissive. Any change to workload as a result of passage of this bill is minimal and can be handled within budgetary resources.

OLR Bill Analysis

sSB 88

AN ACT CONCERNING THE DEPARTMENT OF MENTAL RETARDATION REGISTRY OF INDIVIDUALS TERMINATED OR SEPARATED FROM EMPLOYMENT AS A RESULT OF SUBSTANTIATED ABUSE OR NEGLECT.**SUMMARY:**

The law requires the Department of Mental Retardation (DMR) to create and maintain a registry of people terminated or separated from employment because of substantiated abuse or neglect of a (DMR) client. This applies to people employed by DMR or by an agency, organization, or individual licensed or funded by DMR.

This bill directs DMR to issue at least a semiannual notice to employers that includes the names of individuals placed on the registry as well identifying information about them. Also, the bill allows, rather than requires, DMR to respond to initial inquiries about whether a person has been separated or terminated from employment by using telephone voice mail or other automated response.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 25 Nay 0